

STATE OF COLORADO

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DEPARTMENT OF REGULATORY AGENCIES

DIVISION OF REAL ESTATE

POSITION STATEMENT

MB 1.9 – MORTGAGE COMPANY DEFINITION APPLICABILITY

- Section 1. Scope and Purpose
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- Section 1. Scope and Purpose

The term mortgage company in Colorado law, specifically section 12-61-902(5), C.R.S. is very broad. This term is defined as follows:

“Mortgage company” means a person other than an individual who, through employees or other individuals, takes residential loan applications or offers or negotiates terms of a residential mortgage loan.

Accordingly, the breadth of this definition may possibly create confusion regarding which entities are required to register as a Mortgage Company under the Colorado Mortgage Loan Originator Licensing and Mortgage Company Registration Act. Such is the case with companies that have traditionally been called wholesale lenders, private mortgage insurance companies that provide contract underwriting services and other types of entities that have contacted the Division of Real Estate seeking guidance. The purpose of this rule is to provide clarity to the industry regarding which entities are not considered mortgage companies by the Board of Mortgage Loan Originators and are therefore not required to register with the Board of Mortgage Loan Originators.

- Section 2. Applicability

This position statement concerns entities that do not, through employees or other individuals, take residential loan applications or offer or negotiate terms of residential mortgage loans to borrowers in the State of Colorado.

- Section 3. Position Statement – MB 1.9 Mortgage Company Definition Applicability

The Board of mortgage loan originators views the definition of a mortgage company, pursuant to their interpretation of Colorado law, to exclude the following entities:

1. Persons, other than an individual, who meet all of the following requirements:
 - a. Funds a residential mortgage loan when the residential mortgage loan application was taken by a licensed or exempt person;

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- b. Does not take residential mortgage loan applications or does not offer or negotiate terms of a residential mortgage loan;
 - c. Does not solicit borrowers in Colorado for the purpose of making residential mortgage loans; and
 - d. Does not participate in the offering or negotiation of residential mortgage loans with the borrower, except for setting the terms under which a person may buy or fund a residential mortgage loan originated by a licensed person;
- 2. Private mortgage insurance companies that provide contract underwriting services to the lending community; or
 - 3. Lead generating companies that do not, through employees or other individuals, take residential mortgage loan applications or offer or negotiate terms of a residential mortgage loan to prospective borrowers.

The types of entities described in this position statement are determined to be excluded from the definition of a mortgage company and, therefore, are not required to register as Mortgage Companies with the Colorado Board of Mortgage Loan Originators.

Section 4. Issuance Date

The Board of Mortgage Loan Originators issues this position statement May 22, 2012